Reserved Judgment

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Sales Tax Revision No. 08 of 2003
(Old No. 967 / 1992)

M/s Amitabh Textile Mills Ltd.
Prem Nagar, Dehradun
…..……. Applicant

Versus

The Commissioner of Sales Tax,
U.P. Lucknow
……. Opposite Party

None appeared on behalf of the applicant.
Learned Standing Counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

Despite service of notice, no one turned up on behalf of the applicant-revisionist. Heard learned Standing Counsel for the respondent and perused the record.

2) This revision, preferred under Section 11 of the U.P. Sales Tax Act, 1948, is filed before the Allahabad High Court in the year 1992 from where it has been received by transfer under Section 35 of the U.P. Reorganization Act, 2000, for its disposal.

3) The question of law involved in this revision is as under:

> *"Whether, in the facts and circumstances of the case, the Sales Tax Tribunal was justified in confirming the imposition of interest under Section 8(1) of the U.P. Sales Tax Act, 1948?"*

4) The assessee is a corporate body, registered under the Indian Companies Act, who carries on the business of manufacture and sale of cotton yarn. The assessment pertains to the year 1980-81. Initially, the assessing officer charged the sales tax at the rate of 2.5% on the sale of the cotton yarn, which is the rate payable within the State of U.P. Under Section 8(2)-A of the U.P. Sales Tax Act, 1948, even for the inter-state sale, the rate of tax was also 2.5 per cent even if the sale is made against Form No. 'C'. The assessee deposited the tax according to said rate of 2.5 per cent. However, the assessing officer treating the sale to be inter-state, assessed the tax at 5% under Central Sales Tax Act. In the circumstances, there appears to be bonafide dispute as to the rate of tax when the same was deposited by the assessee. As such, in the circumstances, it cannot be said that the assessing authorities were justified in imposing interest over the enhanced tax. Therefore, since there was no intention on the part of the assessee to suppress the facts or to avoid tax, the learned Sales Tax Tribunal has erred in confirming the imposing of interest over the enhanced tax assessed by the assessing officer.

5) Accordingly, the question is answered in favour of the assessee and the revision is allowed to the extent of imposition of interest over the enhanced tax.

(Prafulla C. Pant, J.)

Dt.25.07.2005
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